

Dated: May 9, 1997.

Lynn E. Davis,

Under Secretary for Arms Control and International Security Affairs, Department of State.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 26

[TD 8720]

RIN 1545-AU26

Generation-Skipping Transfer Tax

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the generation-skipping transfer (GST) tax regulations under chapter 13 of the Internal Revenue Code (Code). This document amends the final regulations under section 2652 and is necessary to provide guidance to taxpayers so that they may comply with chapter 13 of the Code.

DATES: This regulation is effective on May 20, 1997.

For dates of applicability of these regulations, see Effective Date under Supplementary Information.

FOR FURTHER INFORMATION CONTACT: James F. Hogan, (202) 622-3090 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On December 27, 1995, the IRS published final regulations in the **Federal Register** (60 FR 66898) under sections 2611, 2612, 2613, 2632, 2641, 2642, 2652, 2653, 2654, and 2663. On June 12, 1996, a notice of proposed rulemaking deleting § 26.2652-1(a)(4) and two related examples was published in the **Federal Register** (61 FR 29714). No comments responding to the notice of proposed rulemaking were received, and no public hearing was requested or held. The final regulations are adopted as proposed.

Explanation of Provision

Section 2652(a)(1) provides generally, that the term *transferor* means—(A) In the case of any property subject to the tax imposed by chapter 11, the decedent, and (B) in the case of any property subject to the tax imposed by chapter 12, the donor. An individual is treated as transferring any property with respect to which the individual is the

transferor. Under § 26.2652-1(a)(2), a transfer is subject to Federal gift tax if a gift tax is imposed under section 2501(a) and is subject to Federal estate tax if the value of the property is includible in the decedent's gross estate determined under section 2031 or section 2103. Under § 26.2652-1(a)(4), the exercise of a power of appointment that is not a general power of appointment is also treated as a transfer subject to Federal estate or gift tax by the holder of the power if the power is exercised in a manner that may postpone or suspend the vesting, absolute ownership, or power of alienation of an interest in property for a period, measured from the date of the creation of the trust, extending beyond any specified life in being at the date of creation of the trust plus a period of 21 years plus, if necessary, a reasonable period of gestation.

The purpose of the rule in § 26.2652-1(a)(4) was to impose the GST tax when it may not otherwise have applied. It was never intended to (nor could it) prevent the application of the tax pursuant to the statutory provisions that apply based on the original taxable transfer. To eliminate any uncertainty concerning the proper application of the GST tax, the regulations under section 2652(a) are clarified by eliminating § 26.2652-1(a)(4) and *Example 9* and *Example 10* in § 26.2652-1(a)(6) from the regulations.

Effective Date

These amendments apply to transfers to trusts on or after June 12, 1996.

Special Analyses

It has been determined that this Treasury Decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations and, because these regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of this regulation is James F. Hogan, Office of the Chief Counsel, IRS. Other personnel from the

IRS and Treasury Department participated in its development.

List of Subjects in 26 CFR Part 26

Estate taxes, Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, 26 CFR part 26 is amended as follows:

PART 26—GENERATION-SKIPPING TRANSFER TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1986

Paragraph 1. The authority citation for part 26 continues to read, in part, as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 26.2652-1 is amended as follows:

1. Paragraph (a)(4) is removed and paragraphs (a)(5) and (a)(6) are redesignated as paragraphs (a)(4) and (a)(5), respectively.

2. In newly designated paragraph (a)(5), *Examples 9* and *10* are removed and *Example 11* is redesignated as *Example 9*.

Margaret Milner Richardson,
Commissioner of Internal Revenue.

Approved: May 1, 1997.

Donald C. Lubick,

Acting Assistant Secretary of the Treasury.
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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05-97-021]

RIN 2115-AE46

Special Local Regulations for Marine Events; The Great Chesapeake Bay Swim Event, Chesapeake Bay, Maryland

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation.

SUMMARY: This notice implements regulations for the Great Chesapeake Bay Swim Event to be held on June 8, 1997. These special local regulations are needed to provide for the safety of participants and spectators on the navigable waters during this event. The effect will be to restrict general navigation in the regulated area for the safety of participants in the swim, and their attending personnel.